

ESTTA Tracking number: **ESTTA653359**Filing date: **01/30/2015**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Sandbox Holdings LLC		
Entity	limited liability company	Citizenship	Delaware
Address	213 North Racine, Suite 101 Chicago, IL 60607 UNITED STATES		

Attorney information	Lee J. Eulgen Neal Gerber & Eisenberg LLP Two North LaSalle Street Chicago, IL 60602 UNITED STATES leulgen@ngelaw.com, jcohen@ngelaw.com, mhoffman@ngelaw.com Phone:312-269-8000
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Registration Subject to Cancellation

Registration No	4378091	Registration date	08/06/2013
International Registration No.	NONE	International Registration Date	NONE
Registrant	Sandbox AG Badenerstrasse 109 SWITZERLAND		

Goods/Services Subject to Cancellation


Class 036. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: financial consulting and advisory services; banking
Class 041. First Use: 0 First Use In Commerce: 0 All goods and services in the class are cancelled, namely: Education services, namely, providing career training and advice for young entrepreneurs; providing of training in the field of career networking and peer communication for young entrepreneurs; entertainment in the nature of social gatherings for young entrepreneurs

Grounds for Cancellation

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)

Marks Cited by Petitioner as Basis for Cancellation

U.S. Application	85616452	Application Date	05/03/2012
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No.			
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SANDBOX INDUSTRIES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2005/06/01 First Use In Commerce: 2005/06/01 Incubation services, namely, providing financing to freelancers, start-ups, existing businesses and non-profits; Providing venture capital, development capital, private equity and investment funding; Venture capital advisory services; Venture capital financing; Venture capital fund management; Venture capital funding services to emerging and start-up companies; Venture capital services, namely, providing financing to emerging and start-up companies		

U.S. Application No.	85626109	Application Date	05/15/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	SANDBOX INDUSTRIES		
Design Mark			
Description of Mark	The mark consists of a yellow shovel and pail in the sand, depicted on a black background within the upper portion of a black and white rectangle, with the		

	wording "SANDBOX INDUSTRIES" in white lettering located within the bottom portion of a black and white rectangle underneath the shovel and pail design.
Goods/Services	Class 036. First use: First Use: 2008/01/01 First Use In Commerce: 2008/01/01 Incubation services, namely, providing financing to freelancers, start-ups, existing businesses and non-profits; Providing venture capital, development capital, private equity and investment funding; Venture capital advisory services; Venture capital financing; Venture capital fund management; Venture capital funding services to emerging and start-up companies; Venture capital services, namely, providing financing to emerging and start-up companies

Attachments	85616452#TMSN.png(bytes) 85626109#TMSN.png(bytes) #20652579v2 - _Petition to Cancel -- SANDBOX_.pdf(15407 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Lee J. Eulgen/
Name	Lee J. Eulgen
Date	01/30/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Registration No. 4,378,091)	
Mark: SANDBOX and Design)	
)	
SANDBOX HOLDINGS LLC,)	
)	
Petitioner,)	
v.)	
)	Cancellation No. _____
SANDBOX AG,)	
)	
Respondent.)	

PETITION FOR CANCELLATION

This Petition for Cancellation is submitted in the matter of Registration No. 4,378,091, which is owned by Sandbox AG, Badenerstrasse 109 CH-8004, Zürich, Switzerland. Registration No. 4,378,091 (the “Registration”) is for the service mark SANDBOX and Design for use in connection with “financial consulting and advisory services; banking” in International Class 36 and “education services, namely, providing career training and advice for young entrepreneurs; providing of training in the field of career networking and peer communication for young entrepreneurs; entertainment in the nature of social gatherings for young entrepreneurs” in International Class 41 and was registered on August 6, 2013. Petitioner, Sandbox Holdings LLC, a Delaware limited liability company with a place of business at 213 North Racine, Suite 101, Chicago, Illinois 60607, believes that it will be damaged by the continued registration of Registration No. 4,378,091 and, therefore, petitions to cancel the same.

The grounds for this Petition are as follows:

1. For more than a decade, Petitioner and its subsidiaries and affiliates (collectively, “Petitioner”) have been engaged, *inter alia*, in providing various incubation services, business development platforms, accelerator and micro-fund programs, innovation consulting, and venture

capital sourcing and investment services under and in connection with its SANDBOX INDUSTRIES mark and trade name.

2. As a result of Petitioner's continuous and extensive use of the SANDBOX INDUSTRIES mark in connection with its various services, its SANDBOX INDUSTRIES mark has developed considerable consumer recognition. Indeed, the SANDBOX INDUSTRIES name and mark has come to be recognized by consumers as identifying and distinguishing Petitioner's incubation services and related services. The SANDBOX INDUSTRIES mark thus has acquired a further distinctiveness and secondary meaning signifying Petitioner, and Petitioner has cultivated and now owns considerable and valuable goodwill in and symbolized by the SANDBOX INDUSTRIES mark.

3. To protect its substantial rights in the SANDBOX INDUSTRIES name and mark, Petitioner has filed applications with the United States Trademark Office for SANDBOX INDUSTRIES and SANDBOX INDUSTRIES and Design (collectively, the "SANDBOX INDUSTRIES Marks") for use in connection with, *inter alia*, advisory and incubation services, which applications have been assigned Serial Nos. 85/616,452 and 85/626,109.

4. On information and belief, Respondent is a corporation incorporated under the laws of the country of Switzerland.

5. On December 28, 2011, long after Petitioner began using the SANDBOX INDUSTRIES mark, Respondent filed an application to register SANDBOX and Design based upon Respondent's Swiss filing of the mark in connection with "financial consulting and advisory services; banking" in International Class 36 and "education services, namely, providing career training and advice for young entrepreneurs; providing of training in the field of career networking and peer communication for young entrepreneurs; entertainment in the nature of social gatherings for young entrepreneurs" in International Class 41 ("Respondent's Claimed Services").

6. On August 6, 2013, pursuant to Section 66(a) of the Lanham Act, 15 U.S.C. § 1126, the Registration issued to Respondent for SANDBOX and Design for use in connection with Respondent's Claimed Services.

7. The Registration has been cited as an impediment to Petitioner's pending applications for the SANDBOX INDUSTRIES Marks.

8. On information and belief, Respondent is not using the mark SANDBOX and Design in interstate commerce and has not used SANDBOX and Design in the United States since the Registration issued. On information and belief, Respondent is not using SANDBOX and Design, has not used SANDBOX and Design in the United States for at least the past three years, and has therefore abandoned the mark within the meaning of Section 45 of the Trademark Act, 15 U.S.C. § 1127. Accordingly, the Registration should be canceled in accordance with Section 14 of the Trademark Act, 15 U.S.C. § 1064.

9. Petitioner's SANDBOX INDUSTRIES marks have been in actual use prior to the Registration filing date of December 28, 2011, and its applications for those marks cover services that are closely related to the services identified in the Registration.

10. Consumers, upon seeing Respondent's SANDBOX and Design mark used in connection with Respondent's services, are likely to mistakenly believe that it and the services provided in connection with it originated with or are connected with, sponsored by, associated with, or licensed or approved by Petitioner. Thus, the registration and use by Respondent of the SANDBOX and Design mark in connection with the recited services would be likely to cause confusion, mistake, or deception in violation of 15 U.S.C. § 1052(d).

WHEREFORE, Sandbox Holdings LLC requests that Registration No. 4,378,091 be canceled and that this Petition for Cancellation be granted.

Respectfully submitted,

Date: January 30, 2015

By: /Lee J. Eulgen/

One of the Attorneys for
Sandbox Holdings LLC

Lee J. Eulgen
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Chicago, Illinois 60602-3801
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CERTIFICATE OF TRANSMISSION

I hereby certify that the foregoing **PETITION FOR CANCELLATION** is being electronically transmitted via the Electronic System for Trademark Trials and Appeals (“ESTTA”) at <http://estta.uspto.gov/> on the date noted below:

Date: January 30, 2015

By: /Lee J. Eulgen/
One of the Attorneys for Petitioner,
Sandbox Holdings, LLC

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing **PETITION FOR CANCELLATION** upon:

Neil F. Greenblum
Greenblum & Bernstein, P.L.C.
1950 Roland Clarke Place
Reston, Virginia 20191-1411

by depositing said copy in a properly addressed envelope, first class postage prepaid, and depositing same in the United States mail at Two North LaSalle Street, Chicago, Illinois, on the date noted below:

Date: January 30, 2015

By: /Lee J. Eulgen/
One of the Attorneys for Petitioner,
Sandbox Holdings, LLC